

Date: TBD May 2017 (*Arrangements and agenda adjustments to be accomplished by Bob Thomas-NWS, Tim Gates (ECY) and Jeff Davis (DFW).*)

Location: Tentative WA DNR Complex, Olympia, WA.

Duration: 2 hours

Potential Attendees:

- Gesl, David, Corps Northwestern Division Regulatory Program Manager
 - Thomas, Bob CIV USARMY CENWS (US) <James.R.Thomas@usace.army.mil>;
 - Muffy Walker, Corps SEATTLE District
 - Gates, Tim (ECY) <tgat461@ECY.WA.GOV>
 - Davis, Jeffrey P (DFW) <Jeffrey.Davis@dfw.wa.gov>; Habitat
 - Thurston, Randi L (DFW) <Randi.Thurston@dfw.wa.gov>;
 - Randall, Loree' (ECY) <lora461@ECY.WA.GOV>;
 - Burcar, Joe (ECY) <jobu461@ECY.WA.GOV>;
 - Austin, JT (GOV) jt.austin@gov.wa.gov Governors Senior Policy Advisor
 - 'Duff, Robert (GOV)' robert.duff@gov.wa.gov
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- Kim Kratz, NMFS, and select key staff
 - Michael Szerlog, and select key staff
 - Eric Ricker, USFWS and select key staff

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Agenda and discussion:

Federal effort(s) to revise the definition of WOTUS:

- Letter To Governors
- PowerPoint presentation on the federalism process associated with the WOTUS rulemaking

State position and concerns with respect to shoreline stabilization

- Ongoing initiatives and efforts Washington State have been undertaking to encourage soft engineering to reduce and compensate for shoreline stabilization:
 - WDFW Design Guidelines at <http://wdfw.wa.gov/publications/01583>
 - Ecology Guidance – Shoreline Master Programs Handbook, Chapter 15, Shoreline Stabilization
 - Nichole Faghin's training and certification for shoreline stabilization
 - DFW Brochure: "Your Marine Waterfront-A Guide to protecting your property while promoting healthy shorelines"
- Local entity and landowner reaction to soft shoreline stabilization (SSS) alternatives.
- Influence of the Federal process and requirements on landowner decisions.
 - Potential for a Programmatic ESA Consultation.
 - Corps RGP or other vehicle to encourage less damaging (SSS) alternatives.

Tribal Challenges:

Building Interagency Collaboration and Support:

Enforcement challenges: Potential development of a Field level agreement(s), similar to those between EPA-Corps, to leverage the limited resources of all three agencies involved with permitting shoreline stabilization.

Potential use of ESA Section 4(d) Consultation: Section 4(d) of the ESA allows the USFWS to establish special regulations for threatened (not endangered) species, subspecies, and Distinct Population Segments. These "4(d) rules" take the place of the normal protections of the ESA and may either increase or decrease the ESA's normal protections. The ESA specifies that 4(d) rules must be "necessary and advisable to provide for the conservation of such species." One use of 4(d) rules is to relax the normal ESA restrictions to reduce conflicts between people and the protections provided to the threatened species by the ESA. A 4(d) rule can be used in such a situation if those conflicts would adversely affect recovery and if the reduced protection would not slow the species' recovery. (See Title 50 Code of Federal Regulations 17.40(d).)

Other Related Actions:

- Concurrent-- Engage Agency Principals (Robert Duff-WA State, Barry Thom-NMFS, Michelle Pirzadeh-EPA, Dave Ponganis (and/or Beth Coffey-Corps). – Dave Gesl to arrange meeting with assistance from agency counterparts (Kim Kratz, Michael Szerlog).
 - To discuss future direction for ongoing shoreline habitat and CWA authority limits in tidal areas (interpretation of High Tide Line (HTL).
 - Brief 30-60 minute
 - Location – Portland or other location TBD. Possibly include some via teleconference.